Editor's note: appealed -- Civ.No 3-92-CV0885-T (N.D. Tex. May 1, 1992), dismissed with prejudice, (settled) (March 21, 1995)

ANADARKO PETROLEUM CORP.

IBLA 90-141 Decided February 3, 1992

Appeal from a decision of the Acting Deputy to the Assistant Secretary - Indian Affairs (Operations), Bureau of Indian Affairs, denying an appeal of a Dallas Area Compliance Office, Minerals Management Service, order to pay additional royalties. MMS-87-0378-IND.

Affirmed.

1. Administrative Authority: Generally--Appeals: Jurisdiction--Board of Land Appeals--Indians: Mineral Resources: Oil and Gas: Generally--Judicial Review--Oil and Gas Leases: Royalties: Generally

   A statute establishing time limitations for commencement of judicial actions for damages on behalf of the United States does not limit administrative proceedings within the Department of the Interior.

2. Indians: Mineral Resources: Oil and Gas: Generally--Oil and Gas Leases: Royalties: Generally

   As a general rule, reasonable value for the purpose of calculating royalties due to the United States will be the highest price paid for the major portion of like quality products produced or sold from the same field or area or the gross proceeds actually received by the lessee, whichever is greater. When the lessee fails to receive the posted upper-tier price for the new oil produced from its leases because that oil was not timely certified as upper-tier oil, royalties based on the posted upper-tier price are due, notwithstanding the lessee's assertions that it did not have sufficient information to know the percentage of new oil subject to the upper-tier price; that it could not control the certification filing procedures that would have enabled it to obtain the upper-tier price; that it relied on the unit operator to fulfill its responsibilities in this regard; and that it diligently pursued litigation against the unit operator to recover the upper-tier price which litigation was ultimately settled for far less than the posted price of the upper-tier oil.

APPEARANCES: J. Berry St. John, Jr., Esq., Deborah Bahn Price, Esq., Matthew Kepner Brown, Esq., New Orleans, Louisiana, for Anadarko Petroleum Corporation; Peter J. Schaumberg, Esq., Geoffrey Heath, Esq., and Howard W. Chalker, Esq., Office of the Solicitor, U.S. Department of the Interior, Washington, D.C., for the Minerals Management Service.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Anadarko Petroleum Corporation (Anadarko) has appealed from a September 22, 1989, decision of the Acting Deputy to the Assistant Secretary - Indian Affairs (Operations) (Acting Deputy), Bureau of Indian Affairs, denying its appeal of a September 17, 1987, Dallas Area Compliance Office, Minerals Management Service (MMS), order directing Anadarko to pay $178,951.35 in additional royalties for its interest in production from the McElmo Creek Unit during the period July 1976 through March 1978. 1/

The McElmo Creek Unit, located in the Greater Aneth Area Field in San Juan County, Utah, encompasses 24 Navajo Tribal oil and gas mining leases and one fee lease. During the critical time period, the unit had eight working interest owners, including Anadarko. The Superior Oil Company (Superior) was the principal interest owner and operator of the unit. Anadarko had a 3.845-percent interest in unit production, based on its interests in six of the Navajo Tribal leases included in the unit.

In August 1973 the Federal Government adopted a two-tier pricing system for domestic crude oil. See 10 CFR Part 212 (1974). Price controls remained on old or lower tier oil, which was defined as oil produced up to 1972 production levels, while new or upper-tier oil, i.e., that produced above 1972 production levels, could be sold at free market prices. The McElmo Creek Unit first produced new oil in July 1976 and continued to produce quantities of new oil, at least through March 1978.

In August 1983 MMS transferred royalty accounting functions from its Roswell/Albuquerque, New Mexico, offices to its Lakewood, Colorado, Accounting Center. Because lease account balances for the final month under the old Royalty Accounting System (RAS) were not carried over into the new Auditing and Financial System, it was necessary to reconcile the RAS account balances in order to close the lease accounts. In November 1983 MMS notified the companies of the standards it would apply in disposing of lease account balances, and, by letter dated February 7, 1984, MMS requested that Superior, as unit operator, reconcile the royalty accounts on certain unit leases, as of June 1983. The information furnished during the reconciliation effort induced MMS to initiate a detailed review of crude oil

1/ Anadarko has also requested the opportunity for oral argument before the Board. Because the submissions filed by the parties adequately address the issues raised by this appeal, we find no need for oral argument and deny Anadarko's request.

production from the unit for the period July 1976 through March 1978. See MMS Field Report dated Apr. 1, 1988, at 2.

The detailed review revealed that during most of the examined months, Anadarko had valued its allocated share of new oil from the unit at less than posted upper-tier prices. The review also disclosed that over 90 percent of the new oil produced from the unit had been valued at the posted upper-tier prices for royalty purposes.

By letter dated July 31, 1987, MMS notified Anadarko of its preliminary determination that Anadarko had underpaid royalties by $178,951.35 during the period July 1976 through March 1978, when it failed to value its allocated share of the new crude oil produced from the unit at the upper-tier prices posted for the McElmo Creek area. MMS afforded Anadarko an opportunity to comment and provide any additional information that would refute or alter the preliminary determination.

Anadarko responded by letter dated August 31, 1987. It agreed that posted prices paid under arm's-length conditions generally represent reasonable value for royalty purposes, but asserted that an exception should be made in its case. Anadarko explained that it had relied on Superior, as the unit operator with fiduciary obligations to the other working interest owners, to designate, certify, and report the proper classification of the oil to Anadarko's purchaser, and that Superior had failed to make the filings necessary to enable Anadarko to collect the posted upper-tier price. Anadarko indicated that it had paid royalties on the gross proceeds it had received, based on its belief that Superior had fulfilled the certification obligations. Anadarko stated that because it was not in a position to control the certification filing procedures, it should not be penalized for Superior's actions or inactions as unit operator. Alternatively, Anadarko raised the 6-year statute of limitations found at 28 U.S.C. § 2415 (1988), as a defense, noting that over 8 years had lapsed since the royalties at issue were paid and arguing that the Government was barred from claiming royalties beyond the immediately preceding 6 years.

By letter dated September 17, 1987, MMS rejected Anadarko's proffered justifications and determined that, pursuant to the royalty valuation regulations, the reasonable value of the new oil from the McElmo Creek Unit was the posted upper-tier price. MMS concluded that any damage Anadarko may have suffered due to Superior's conduct could be redressed through the judicial system, noting that Anadarko had filed a complaint against Superior which had been settled out of court. Accordingly, MMS directed Anadarko to pay $178,951.35 in additional royalties.

Anadarko appealed the MMS order to the Acting Deputy. On appeal it expanded on its earlier explanation, stressing that it had paid royalties on its gross proceeds believing that Superior was fulfilling its responsibilities and Anadarko was receiving the highest allowable price for its oil. Anadarko claimed that it first learned of Superior's failure in this regard in 1978 when the Navajo Tribe notified it that part of the oil sold between July 1976 and March 1978 was new oil and that royalties on the new oil should have been based on the upper-tier price instead of

the lower-tier price. Anadarko indicated that on September 27, 1979, it and another working interest holder filed suit against Superior and Phillips Petroleum Company, the purchaser of the oil, in an attempt to recover the posted upper-tier price for the oil, and that the litigation was ultimately settled out of court with Anadarko receiving $22,107.50. 2/

Anadarko elaborated on its argument that any claim for additional royalties was barred by the 6-year statute of limitations found at 28 U.S.C. § 2415 (1988). Additionally, Anadarko contended that the MMS order was arbitrary and capricious because it was based on too narrow an interpretation of the royalty valuation regulations and did not give due consideration to the price received by the lessee and to other relevant matters, i.e., Anadarko's position as a small participant in and nonoperator of the unit and the MMS delay in seeking the additional royalties. Anadarko also asserted that the circumstances of this case, including its diligent pursuit of litigation against Superior, presented good reason for valuing the oil at something other than the highest price paid or offered in the field or area. Alternatively, Anadarko contended that if any additional royalty was due, it should be limited to a percentage of the amount it actually recovered from Superior in litigation.

On September 22, 1989, the Acting Deputy issued his decision affirming the prior decision. After citing the lease and regulatory provisions discussing the value of production for royalty purposes, the Acting Deputy determined that posted prices represent reasonable value for royalty purposes, noting that there was no dispute that the major portion of the new oil produced from the unit was sold at posted upper-tier prices.

The Acting Deputy rejected Anadarko's argument that the circumstances underlying this case warranted the payment of royalties based on gross proceeds rather than on posted upper-tier prices. He found that Anadarko's evidence 3/ did not establish that the unit operator was responsible for the failure to certify the oil for upper-tier prices. He continued:

> Even if that assertion were accepted, the failure of the Appellant or its agent to take all necessary steps to obtain the highest price for the benefit of the royalty owner does not constitute "good reason to the contrary" under the regulations for disregarding the major portion valuation. The royalty promised by the leases should not be affected by a dispute between the lessee and the operator over who was at fault for failing to sell the lease production at the highest lawful price. On this basis, the higher valuation assigned by [MMS] is well within the provisions

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2/ Anadarko did not pay royalties on this additional $22,107.50.

3/ By letter dated Dec. 30, 1988, MMS requested additional documentation, information, and arguments demonstrating that the settlement of Anadarko's litigation against Superior was reasonable and appropriate under the circumstances. Anadarko's response included copies of the pleadings and decisions filed in the court, as well as letters and notes discussing settlement negotiations.

of the leases and the applicable regulations and is affirmed in all respects.

(Decision at 5).

The Acting Deputy also concluded that this administrative proceeding was not barred by the 6-year statute of limitations found at 28 U.S.C. § 2415 (1988), which applies to claims filed by the United States in Federal courts. He stated that although statutes of limitations may bar remedies available to a claimant, they do not affect the merits of the dispute or the underlying right of recovery. Because this proceeding determined only the underlying obligation for royalty, the Acting Deputy determined that "the alleged applicability of a statute of limitations does not operate to limit the period for which royalty may be found due" (Decision at 6). He, therefore, denied Anadarko's appeal.

In its statement of reasons (SOR) for appeal, Anadarko argues extensively that the Government's claim for additional royalties is barred by 28 U.S.C. § 2415 (1988). Anadarko contends that the 6-year limitation found in that section applies to claims raised by the Government in administrative as well as judicial proceedings. It asserts that the language, overall structure, and legislative history of section 2415, well-established Departmental practices, the recordkeeping and penalty provisions of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. §§ 1713(b), 1755 (1988), and the judicial construction of section 2415 in Phillips Petroleum Co. v. Lujan, No. 88-C-1487-E (N.D. Okla. Oct. 18, 1989), rev'd, __ F.2d ___ (10th Cir. Dec. 1, 1991) (Phillips), all support the conclusion that the limitation bars administrative claims. Anadarko insists that the limitation period applies to proceedings to determine liability as well as actions to enforce remedies arising from such liability. In any event, according to Anadarko, the distinction between liability and remedy has no bearing here because the MMS order brings into issue the Government's remedies for the alleged royalty underpayments.

Anadarko also contends that the Acting Deputy's decision is arbitrary, capricious, an abuse of discretion, and contrary to law. It reiterates that as a minor participant in the unit and as a non-operator, it did not have the information to know the percentage of new oil subject to the upper-tier price and that it had no control over the certification filing procedures that would have entitled it to secure the upper-tier price for the new oil. Anadarko stresses that it assumed that Superior, as unit operator, was fulfilling these responsibilities, 4/ and that when it learned that Superior not discharged its contractual and fiduciary responsibilities, Anadarko

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4/ Anadarko also alleges that the MMS statement that over 90 percent of the new oil produced during the critical time period was valued at upper-tier prices demonstrates that MMS knew or should have known that Anadarko's interest in the lease was being treated differently than the interests of the others in the unit and that "[t]imely action by the MMS, which possessed the information that Anadarko did not, would have minimized the impact of the price differential on both the working interest owner

filed suit against Superior and Phillips and diligently pursued its suit until the litigation was ultimately settled with recovery from Superior of $22,107.50. 5/ Anadarko insists that its inability to control the certification filing procedures and its efforts to obtain judicial recovery from Superior qualify as good reason for using the price it received instead of the posted upper-tier price for establishing the reasonable value of the production for royalty purposes, and that the Acting Deputy's dismissal of these contentions amounts to a failure to give the required due consideration to the price received by the lessee and to other relevant matters. 6/

In its answer, MMS challenges Anadarko's contention that the 6-year statute of limitations in 28 U.S.C. § 2415 (1988) precludes this administrative proceeding. MMS argues that this Board's decisions in Forest Oil Corp., 111 IBLA 284 (1989), reconsideration denied, April 30, 1990, and Foote Mineral Co., 34 IBLA 285, 85 I.D. 171 (1978), clearly establish that the statute of limitations does not bar the Board from upholding the Acting Deputy's decision.

MMS also asserts that because the value of Anadarko's new oil was the posted upper-tier price, MMS properly assessed royalties based on this higher price. According to MMS, it is not bound to accept the contract

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fn. 4 (continued)
and the royalty owner" (SOR at 54). The record clearly indicates, however, that MMS discovered that over 90 percent of the new oil produced from the unit was valued at posted upper-tier prices and that Anadarko had valued its share of the new oil at lower tier prices at approximately the same time, i.e., as a result of the review it initiated after receiving the account reconciliation information from Superior in 1984. See MMS Field Report dated Apr. 1, 1988, at 2.

5/ Anadarko has requested that additional royalties be assessed only on the amount it received from Superior in settlement of its claims should the Board reject its other arguments.

6/ While recognizing that the revised royalty valuation regulations, effective Mar. 1, 1988, do not control royalty valuations for oil produced and sold between July 1976 and March 1978, Anadarko asserts that the provisions of revised 30 CFR 206.102(j) suggest that the circumstances discussed therein should be considered good reason under the applicable regulations for valuing oil at other than the highest price per barrel in the field or area. That regulation provides that if a lessee makes timely application for a price increase as allowed under its contract, but the purchaser refuses and the lessee takes documented reasonable measures to enforce compliance, "the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase * * * are received." 30 CFR 206.102(j). In this case, however, Anadarko did not make a timely application for the upper-tier prices for its share of the new oil. See 10 CFR 212.72 (1974) (barring recovery of upper-tier prices unless the oil has been certified as new oil within 2 months of production).

price as the value of the oil, nor is it required to accept a lower royalty payment due to the errors committed by Anadarko's agent. MMS notes that Anadarko acknowledges that the oil at issue could have been sold at the upper-tier price, and contends that the Government is entitled to royalties based on the highest obtainable regulated price. It submits that the fact that the unit operator may have mispriced the oil does not relieve Anadarko, as lessee, of its duty to pay royalty on the reasonable value of the mispriced oil. Accordingly, MMS concludes that the Acting Deputy's decision must be affirmed.

In a brief reply, Anadarko argues that the Board's cases are distinguishable, erroneously reasoned, and of lesser precedential value than the district court's decision in Phillips.

[1] As a threshold matter, we reject Anadarko's contention that the 6-year statute of limitations at 28 U.S.C. § 2415 (1988) bars these administrative proceedings. That section, which governs the time for commencing judicial actions brought by the United States, provides in part:

> Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon any contract express or implied in law or fact, shall be barred unless the complaint is filed within six years after the right of action accrues or within one year after final decisions have been rendered in applicable administrative proceedings required by contract or law, whichever is later * * *.

28 U.S.C. § 2415(a) (1988).

This Board has previously held statutes of limitations apply to judicial enforcement of administrative actions, but not to the underlying administrative actions. See Marathon Oil Co., 119 IBLA 345, 352 (1991); Mobil Exploration & Producing U.S., Inc., 119 IBLA 76, 81, 98 I.D. 207, 210 (1991); Alaska Statebank, 111 IBLA 300, 311 (1989); Forest Oil Corp., supra at 286-87; Foote Mineral Co., supra at 306-08, 85 I.D. at 182-83. As we stated in Alaska Statebank, supra, a Departmental proceeding requiring payments which accrued more than 6 years before the proceeding began "is not an action for money damages brought by the United States, but rather is administrative action not subject to the statute of limitations." 111 IBLA at 311; see S.E.R., Jobs for Progress, Inc. v. United States, 759 F.2d 1, 5 (Fed. Cir. 1985). We are without authority to decide whether the statute of limitation would bar a judicial suit to collect royalty deemed owing on a lease; such determination would be made by the court before which any collection proceeding is brought. Marathon Oil Co., supra; Alaska Statebank, supra at 312.

None of Anadarko's arguments 7/ persuades us that the 6-year limitation period in 28 U.S.C. § 2415(a) (1988) should apply to administrative

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7/ To the extent we do not specifically address these arguments, infra, we have carefully considered and rejected them.

proceedings. That section, by its own terms, applies only to judicial actions brought to recover money damages; it does not expressly cover administrative proceedings to determine the underlying liability for such payments. 8/ Because "[s]tatutes of limitation sought to be applied to bar rights of the Government[] must receive a strict construction in favor of the Government," Badaracco v. Commissioner, 464 U.S. 386, 391 (1984) (quoting E.I. DuPont de Nemours & Co. v. Davis, 264 U.S. 456, 462 (1924)), if a statute is ambiguous in assigning a limitations period for a claim, that statute must be interpreted in the light most favorable to the Government. FDIC v. Former Officers & Directors of Metropolitan Bank, 884 F.2d 1304, 1309 (9th Cir. 1989), cert. denied, 110 S. Ct. 3215 (1990). As the Ninth Circuit found, "application of this principle is particularly appropriate in this case because prior to the enactment of section 2415 there was no time limitation on the government's ability to bring suit, unless a particular federal statute provided a statute of limitations." Id. Accordingly, we adhere to our conclusion that 28 U.S.C. § 2415 (1988) does not apply to administrative proceedings. 9/

[2] We conclude that MMS properly valued Anadarko's share of the new oil produced from the unit during the period July 1976 through March 1978 at the posted upper-tier prices for new oil from the McElmo Creek area. The Department has the authority and responsibility to establish the reasonable value of production for royalty purposes, and possesses considerable discretion in determining that value. Marathon Oil Co. v. United States, 604 F. Supp. 1375, 1382 (D. Alaska 1985), aff'd, 807 F.2d 759 (9th Cir. 1986), cert. denied, 107 S. Ct. 1593 (1987); Mobil Oil Corp., 115 IBLA 304, 308 (1990); Dugan Production Corp., 111 IBLA 181, 184-85 (1989) (and cases cited therein); Texaco, Inc., 104 IBLA 304, 308 (1988); Amoco Production Co., 78 IBLA 93, 96 (1983), aff'd, Amoco Production Co. v. Hodel, 627 F. Supp. 1375 (W.D. La. 1986), vacated and remanded, 815 F.2d 325 (5th Cir. 1987) (proper jurisdiction found to be in Claims Court), cert. denied, 487 U.S. 1234 (1988). That discretion is tempered only by the standard of reasonableness. Mobil Oil Corp., supra; Texaco Inc., supra at 310.

The rules governing the valuation of production for royalty purposes during the relevant time period were found at 30 CFR 250.64 (1978)

8/ We also reject Anadarko's contention that the statute of limitations bars actions to determine liability as well as limiting available remedies. We note that section 2415 specifically provides that the limitation period does not prevent the assertion of an otherwise time barred claim as a counterclaim or judicial or administrative offset. 28 U.S.C. § 2415(f), (i) (1988). Thus, the statute of limitations does not affect administrative proceedings to determine the underlying obligation to pay royalty. Forest Oil Co., supra at 287; Foote Mineral Co., supra. Anadarko has not convinced us that these decisions are erroneous.

9/ We note that Anadarko's reliance on the district court's decision in Phillips is misplaced since the Tenth Circuit Court of Appeals reversed the district court's decision on Dec. 1, 1991. ___ F.2d ___ (10th Cir. 1991).

and 25 CFR 171.13 (1978). Under 30 CFR 250.64 (1978) which applied generally to all oil and gas leases controlled by the United States:

> The value of production, for the purpose of computing royalty, shall be the estimated reasonable value of the product as determined by the supervisor, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price paid or offered at the time of production in a fair and open market for the major portion of like-quality products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value.

The regulation found at 25 CFR 171.13 (1978) applied to royalty valuations for Indian tribal leases and provided in pertinent part:

> During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/ or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value.

Section 3(c) of the Navajo Tribal leases track this regulatory language.

In this case Anadarko does not dispute that the majority of the new oil produced from the McElmo Creek Unit during the critical time period was valued at the posted upper-tier price for new oil. Anadarko also acknowledges that it would have been entitled to the posted upper-tier price for its share of the new oil, had that oil been properly and timely certified as new oil. Anadarko nevertheless argues that given the circumstances of this case, MMS should have valued its share of the new oil at the price received instead of at the posted upper-tier price.

The applicable regulations and tribal lease terms clearly indicate that the Department is not required to value production based on the

actual price received by the lessee. Phillips Petroleum Co., 117 IBLA 230, 237 (1990); Mobil Oil Corp., supra at 309 (and cases cited); Texaco, Inc., supra at 310 (and cases cited). In fact, the gross proceeds received by the lessee simply establish a floor below which value for royalty purposes will not be allowed to fall. Transco Exploration Co., 110 IBLA 282, 320, 96 I.D. 367, 388 (1989). When the highest price paid for the majority of like-quality products produced from the area exceeds the price received by the lessee, royalty value is properly computed on the basis of the higher price paid by the majority. Anadarko has not convinced us that good reason exists to value its share of the new oil based on the price it actually received instead of on the basis of the posted upper-tier price.

Anadarko strenuously argues that its failure to receive the posted upper-tier price for its share of the new oil stemmed from Superior's failure to properly discharge its contractual and fiduciary responsibilities to file the required certification documents, and that Anadarko lacked the information necessary to control the certification filing procedures. 10/ We need not decide whether Superior was responsible for Anadarko's failure to obtain the posted upper-tier price for its share of the new oil because, if true, the unit operator's neglect does not relieve Anadarko, as lessee, from ultimate responsibility for compliance with lease terms and regulations. 43 CFR 3162.3(a); Jerry Chambers Exploration Co., 107 IBLA 161, 163 (1989); Supron Energy Corp., 45 IBLA 181, 192 (1980). The terms of Anadarko's leases and the regulations require the payment of royalty based on the value of the production, when that value is greater than the actual price received by the lessee. Thus, Superior's alleged negligence does not constitute good reason for valuing the new oil at other than the highest price received for the major portion of the new oil produced from the unit.

We also reject Anadarko's alternative assertion that additional royalties should be assessed only on the amount it received in settlement of its claims against Superior. Although Anadarko sought damages of $418,941 from Superior (see Attachment H, MMS Field Report dated Apr. 1, 1988, Complaint, Civil No. C-80-0122W (D. Utah Sept. 27, 1980)), it received only $22,107.50 as a result of the settlement. Anadarko has not shown that this amount reflects the value of its share of the new oil produced from the unit.

In sum, we find that MMS gave appropriate consideration to the actual price received by Anadarko for its share of the new oil produced from the unit during the period July 1976 through March 1978 and to other relevant

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10/ We note that in response to Anadarko's lawsuit, Superior vigorously denied that it had any such obligations and contended that it provided Anadarko with all the data necessary to compute the amount of new oil attributable to its interest in the unit production. See Attachment G, MMS Field Report dated Apr. 1, 1988, Memorandum of Law in Support of the Motion of Defendant The Superior Oil Company for Summary Judgment against Plaintiffs, Civil No. C-80-0122W (D. Utah).

matters, and properly determined that the value of Anadarko's share of that new oil was the posted upper-tier price for new oil produced from the McElmo Creek area during that period. We also conclude that Anadarko has not demonstrated good reason for valuing its share of the oil at other than the posted upper-tier price.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

I concur:

R. W. Mullen
Administrative Judge